

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LINDA D. SELIVANOW,

Plaintiff,

v.

BANK OF NEW YORK MELLON, *et al.*,

Defendants.

CASE NO. C15-5412 RBL

ORDER GRANTING QUALITY'S
MOTION FOR SUMMARY
JUDGMENT

[Dkt. #16]

THIS MATTER is before the Court on Defendant Quality Loan Service's Motion for Summary Judgment. The Court recently denied Plaintiff Selivanow's Motion for a TRO, in part because she has filed for protection under the Bankruptcy Code. Quality correctly points out that the bankruptcy stay does not affect this motion. Under the case law of the Ninth Circuit, a motion to dismiss a pre-petition lawsuit is not covered by the automatic stay. *In re Merrick*, 175 B.R. 333 (9th Circuit BAP, 1994).

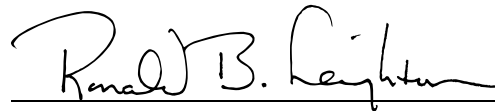
Quality argues that it was properly appointed by the note holder (defendant BONY) and that Selivanow has not and cannot meet her summary judgment obligation to provide evidence creating a material fact on any element of her claims. Selivanow has not responded to the Motion, and the time for responding has passed. Quality asks the court to construe this failure as an admission that its motion has merit under Local Rule 7(b)(2) ("the failure to file a response may be

1 considered by the Court as an admission that the motion has merit.”) The Court will do so. It is clear
2 that the Motion does in fact have merit, and Selivanow has not met her summary judgment burden.

3 Quality’s Motion for Summary Judgment [Dkt. #16] is GRANTED and Selivanow’s claims
4 against it are DISMISSED with prejudice.

5 IT IS SO ORDERED.

6 Dated this 4th day of November, 2015.

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9 Ronald B. Leighton
10 United States District Judge
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